

# **SWELLEN DAM MUNICIPALITY**



## **RATES POLICY, 2018**

**APPROVED BY COUNCIL: DRAFT**

**IMPLEMENTATION DATE 1 JULY 2018**

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## 1. LEGISLATIVE CONTEXT

- 1.1 This Policy is mandated by Section 3 of the Local Government: Municipal Property Rates Act, 2004 (No.6 of 2004), which specifically provides that a Municipality must adopt a Rates Policy.
- 1.2 In terms section 5(1) of the act supra the municipality must annually during its budget process review its Rates Policy and if necessary amend the policy. The amended policy must accompany the annual budget when it is tabled and follow a process of community participation through the budget process.
- 1.3 Now therefore the following amended Rates Policy is tabled for adoption by Council and community comments.
- 1.3 In terms of Section 229 of the Constitution of the Republic of South Africa, 1996 (No.108 of 1996), a Municipality may impose rates on property.
- 1.4 In terms of the Local Government: Municipal Property Rates Act, 2004 (No.6 of 2004) a municipality in accordance with –
  - (a) Section 2(1), may levy a rate on property in its area; and
  - (b) Section 2(3), must exercise its power to levy a rate on property subject to-
    - i) Section 229 and any other applicable provisions of the Constitution;
    - ii) The provisions of the Property Rates Act; and
    - iii) The rates policy.
- 1.5 In terms of Section 4(1)(c) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the municipality has the right to finance the affairs of the municipality by imposing, *inter alia*. rates on property.
- 1.6 In terms of Section 62(1)(f)(ii) of Local Government: Municipal Finance Management Act, 2003 (No. 6 of 2003) the Municipal Manager must ensure that the municipality has implement a rates policy.

## 2. OBJECTIVES

In developing and adopting this rates policy, the council has sought to give effect to the sentiments expressed in the preamble of the Property Rates Act, namely that:

*The Constitution enjoins local government to be developmental in nature, in addressing the service delivery priorities of our country and promoting the economic and financial viability of our municipalities;*

*There is a need to provide local government with access to a sufficient and buoyant source of revenue necessary to fulfil its developmental responsibilities;*

*Revenues derived from property rates represent a critical source of income for municipalities to achieve their constitutional objectives, especially in areas neglected in the past because of racially discriminatory legislation and practices and;*

*it is essential that municipalities exercise their power to impose rates within a statutory framework which enhances certainty, uniformity and simplicity across the nation, and which takes account of historical imbalances and the burden of rates on the poor.*

In applying its rates policy, the council shall adhere to all the requirements of the Property Rates Act No. 6 of 2004 including any regulations promulgated in terms of the said Act.

The objectives of this policy are also to ensure that:

- all ratepayers within a specific category are treated equal and reasonable;
- all rates levied are affordable; in dealing with the poor/indigent ratepayers the municipality will provide relief measures through exemptions, reductions or rebates;
- rates are levied in accordance with the market value of the property as determined through a valuation;
- the rate will be based on the value of all rateable property in that category and the amount required by the municipality to balance the operational budget, taking into account the surplus obtained from the trading- and economical services and the amounts required to finance exemptions, reductions and rebates that the municipality may approve from time to time;
- income derived from rates will be used to finance community- and subsidised services only;
- to optimally safeguard the income base of the municipality through exemptions, reductions and rebates that are reasonable and affordable taking into account the poor / indigent ratepayers.

In order to minimize major shocks to certain ratepayers the market values in the new valuation roll or tariffs determined by Council may be phased-in over the entire periods as stipulated in the Rates Act to adhere to the legal requirements of the Property Rates Act (Act 6/2004).

### 3. DEFINITIONS

- 3.1 **“Act “means** the Local Government: Municipal Property Rates Act, 2004 (Act No.6 of 2004);
- 3.2 **“Agricultural property**, in relation to the use of a property, means property that is used primarily for agricultural purposes but, without derogating from section 9, excludes any portion thereof that is used commercially for the hospitality of guests, and excludes the use of the property for eco-tourism or for the trading in or hunting of game;
- 3.3 **“Bona fide farmers”** means genuine or real farmers whose dominant income is generated from farming;
- 3.4 **“Business Property”**, means-
- (a) property used for the activity of buying, selling or trading in commodities or services and includes shops, offices, petrol filling stations, creches, private hospitals, private clinics, guest houses, cell phone and Telkom towers and hotels; or
  - (b) Property on which the administration of the business of private or public entities take place;
- 3.5 **“Category” –**
- (a) in relation to property, means a category of property determined in terms of section 8 of the Act;
  - (b) in relation to owners of property, means a category of owners determined in terms of section 15 (2) of the Act;

- 3.6 **“Eco –tourism property”** means agricultural property use for the purpose of eco-tourism;
- 3.7 **“exclusion”** in relation to a municipality’s rating power, means a restriction of that power as provided for in section 17 of the Act;
- 3.8 **“game farming”** means agricultural property on which the trading in - or the hunting of game take place;
- 3.9 **“household income”** means the income accruing to all members of the household permanently residing at the address. It includes income of spouses;
- 3.10 **“income tax act”** means the Income Tax Act ,1962 (Act 58 of 1962)
- 3.11 **“indigent person”** means a person whose household income does not exceed the minimum household income as predetermined by the council;
- 3.12 **“Industrial property”** means a branch of trade or manufacturing, production, assembling or processing of finished or practically finished products from raw materials or fabricated parts. This includes grain silos, factories and any office or other accommodation on the same property, the use of which is incidental to the use of such a property
- 3.13 **“land reform beneficiary”** in relation to a property, means a person who – acquired the property through the Provincial Land and Assistance Act,1993 (Act 126/1993); the Restitution of Land Rights Act, 1994 (act 22/1994); holds the property subject to the Communal Property Associations Act,1996 (Act 28 of 1996); or holds or acquires the property in terms of such other land tenure enacted after this Act has taken effect;
- 3.14 **“land tenure right” means** an old order right or a new order right as defined in section 1 of the communal Land Rights Act ,2004 (Act no.11of 2004)
- 3.15 **“local community”**, in relation to a municipality:
- (a) means that body of persons comprising:
    - (i) the residents of the municipality;
    - (ii) the ratepayers of the municipality;
    - (iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and
    - (iv) visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality;
  - (b) Includes, more specifically, the poor and other disadvantaged sections of such body of persons.
- 3.16 **“local municipality”** means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in section 155(1) of the Constitution as a category B municipality;
- 3.17 **“market value”**, in relation to a property, means the value of the property determined in accordance with section 46 of the Act;

- 3.18 **“MEC for Local Government” means** the member of the Executive Council of a province who is responsible for local government in that province;
- 3.19 **“Mining” means** any operation or activity for the purpose of extracting any mineral on, in **or** under the earth, water or any residue deposit, whether by underground or open working or otherwise and includes any operation or activity incidental thereto;
- 3.20 **“Multiple use properties”** in relation to a property, means a property that cannot be assigned to a single category due to the different uses of such a property in which event the property will be valued based on the apportionment of uses in accordance with the applicable category of property in terms of this policy;
- 3.21 **“Municipality”** means the municipal council for the municipal area of Swellendam;
- 3.22 **“Municipal Properties”** refers to a property that is registered in the name of the municipality and property vested by usage in the name of the Municipality whether it is used by the Municipality itself or made available to other entities without cost of a rental agent;
- 3.23 **“Municipal Systems Act”** means the Local Government: municipal Systems Act, 2000 (Act 32 /2000);
- 3.24 **“Newly rateable property”** means any rateable property on which property rates were not levied by 30 June 2005 excluding a property that was incorrectly omitted from a valuation roll and for that reason was not rated before that date;
- 3.25 **“Office bearer”**, in relation to places of public worship, means the primary person who officiates at services at that place of worship;
- 3.26 **“Official residence”**, in relation to places of public worship, means: -
- (a) a portion of the property used for residential purposes; or
  - (b) one residential property, if the residential property is not located on the same property as the place of worship;
- Registered in the name of a religious community or registered in the name of a trust established for the sole benefit of a religious community and used as a place of residence for an office bearer;
- 3.27 **“Occupier”**, in relation to a property, means a person in actual occupation of a property whether or not that person has a right to occupy the property;
- 3.28 **“Owner”** in relation to property referred to in paragraph (a) of the definition of “property”, means –
- a person in whose name ownership of the property is registered;
  - in relation to a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered;
  - in relation to a land tenure right referred to in paragraph (c) of the definition of “property”, means a person in whose name the right is registered or to whom it was granted in terms of legislation, provided that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in the following cases:
- (i) a trustee, in the case of a property in a trust excluding state trust land;
  - (ii) an executor or administrator, in the case of a property, in a deceased estate;

- (iii) a trustee or liquidator, in the case of a property, in an insolvent estate or in liquidation;
  - (iv) a judicial manager, in the case of a property, in the estate of a person under judicial management;
  - (v) a curator, in the case of a property, in the estate of a person under curatorship;
  - (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
  - (vii) a lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or
  - (viii) buyer, in the case of a property that was sold and of which possession was given to the buyer pending registration of ownership in the name of the buyer;
- 3.29 **“permitted use”**, in relation to a property, means the limited purposes for which the property may be used in terms of –
- (a) any restrictions imposed by –
    - (i) a condition of title;
    - (ii) a provision of a town planning or land use scheme; or
    - (iii) any legislation applicable to any specific property or properties; or any alleviation of any such restrictions;
- 3.30 **“person”** includes an organ of the state;
- 3.31 **“Place of Public Worship”**, means property used primarily for the purposes of congregation, excluding a structure that is primarily used for educational instruction in which secular or religious education is the primary instructive medium: Provided that the property is:-
- (a) registered in the name of a religious community;
  - (b) registered in the name of a trust established for the sole benefit of a religious community; or
  - (c) subject to land tenure right;
- 3.32 **“prime rate”** means the prime rate of the bank where the primary account of the municipality is kept plus 1%
- 3.33 **“Protected area”** means an area that is or has to be listed in the register referred to in **section 10** of the National Environmental Management Protected Areas Act, 2003.
- 3.34 **“Public Benefits Organization”** means property owned by public benefit organisations and used for any specified public benefit activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of part 1 of the Ninth Schedule to the Income Tax Act.
- 3.35 **“Public Service Infrastructure”** means publicly controlled infrastructure of the following kinds:
- (a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
  - (b) water or sewer pipes, ducts or other conduits, dams and water supply reservoirs, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;
  - (c) power stations, power substations or power lines forming part of an electricity scheme serving the public.
  - (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;

- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges or lines forming part of a communications system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) breakwater, sea walls, channels. Basin, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising light houses, radio navigational aids buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
- (i) any other publicly controlled infrastructure as may be prescribed; or
- (j) a right registered against immovable property in connection with infrastructure mentioned in paragraphs (a) to ( i)

3.36 **“Public service purposes”**, in relation to the use of a property, means property owned and used by an organ of state as—

- (a) Hospitals or clinics;
- (b) Schools, pre-schools, early childhood development centres or further education and training colleges;
- (c) National and provincial libraries and archives;
- (d) Police stations;
- (e) Correctional facilities; or
- (f) Courts of law,

But excludes property contemplated in the definition of “public service infrastructure”;

3.37 **“rate”** means a municipal rate on property envisaged in section 229(1)(a) of the Constitution;

3.38 **“rateable property”** means property on which a municipality may in terms of section 2 of the Act levy;

3.39 a rate, excluding property fully excluded from the levying of rates in terms of section 17 of the Act;

3.40 **“rebate”**, in relation to a rate payable on a property, means a discount on the amount the rates payable on the property;

3.41 **“Reduction”**, in relation to a rate payable on a property, means the lowering of the amount for which the property was valued and the rating of the property at that lower amount;

3.42 **“Residential Property”** means a property with a building designed for, or containing provision for human habitation, together with such outbuildings are ordinarily used therewith:

- (a) Is used exclusively for residential purposes without derogating from section 9 of the Act;
- (b) Is a unit registered in terms of the sectional Title Act and used exclusively for residential purposes without derogating from section 9 of the Act;
- (c) Is owned by a share-block company and used solely for residential purposes;
- (d) Is a residence used for residential purposes situated on property used for or related to educational purposes;
- (e) Retirement schemes and life right schemes used exclusively for residential purposes

And specifically exclude hostels, guest houses and vacant land irrespective of its zoning or intended use;



- 3.43** “**Sectional titles Act**” means the Sectional Titles Act, 1986 (Act 95/1986);
- 3.44** “**Sectional title unit**” means a unit defined in section 1 of the Sectional Titles Act;
- 3.45** “**Specified public benefit activity**” means an activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act;
- 3.46** “**State-owned properties**” means properties owned by the State, which are not included in the definition of public service infrastructure in the Act.

These state- owned properties are classified as follows:

- (a) State properties that provide local services.
- (b) State properties that provide regional / municipal district- wide / metro- wide service
- (c) State properties that provide provincial / national service

Excluding public service purpose properties

- 3.47** “**Vacant Land**” means land on which no immovable improvements have been erected excluding farm properties not used for any purposes as contemplated in section 8(2)(e) of the MPRA.

#### **4. PURPOSE OF THE POLICY**

The purposes of the policy are to:

- (1) Comply with the provisions section 3 of the Act.
- (2) Determine criteria to be applied for-
  - a) the levying of differential rates for different categories of properties;
  - b) exemptions;
  - c) grants and rebates; and
  - d) rate increases.
- (3) Determine or provide criteria for the determination of: -
  - a) categories of properties for the purpose of levying different rates; and
  - b) categories of owners of properties for the purpose for the granting of exemptions, rebates and reductions.
- (4) Determine how the municipality’s powers must be exercised in relation to multi-purpose properties.
- (5) Identify and provide reasons for
  - a) exemptions, rebates and reductions;
  - b) exclusions; and
  - c) rates on properties that must be phased in.
- (6) Take into account the effect of rates on the poor.
- (7) Take into account the effect of rates on organisations conducting specified public benefit activities and registered in terms of the Income Tax Act for tax exemptions because of those activities, in the case of property owned and used by such organisations for those activities.
- (8) Take into account the effect of rates on public service infrastructure.
- (9) Determine measures to promote local economic and social development.
- (10) Identify all rateable property that is not rated.

## **5. POLICY PRINCIPLES**

- 5.1 Rates are levied in accordance with the Act as an amount in the rand based on the market value of all rateable property contained in the municipality's valuation roll and supplementary valuation roll.
- 5.2 As allowed for in the Act, the Municipality has chosen to differentiate between various categories of property and categories of owners of property. Some categories of property and categories of owners are granted relief from rates. The municipality however does not grant relief in respect of payments for rates to any category of owners or properties, or to owners of properties on an individual basis, other than by way of an exemption, rebate or reduction provided for in this policy.
- 5.3 There would be no phasing in of rates based on the new valuation roll, except as prescribed by legislation.
- 5.4 The rates policy for the municipality is based on the following principles:
  - (a) Equity  
The municipality will treat all ratepayers with similar properties the same.
  - (b) Affordability  
The ability of a person to pay rates will be taken into account by the municipality. In dealing with the poor / indigent ratepayers the municipality will provide relief measures through exemptions, reduction or rebates.
  - (c) Sustainability  
Rating of property will be implemented in a way that:
    - i) it supports sustainable local government by providing a stable a buoyant revenue source within the discretionary control of the municipality; and
    - ii) support local social economic development.
  - (d) Cost efficiency  
Rates will be based on the value of all rateable property and the amount required by the municipality to balance the operating budget after taking into account profits generated on trading (water, electricity) and economic (refuse removal, sewerage removal) services and the amounts required to finance exemptions, rebate reduction and phasing-in of rates as approved by the municipality from time to time.

## **6. SCOPE OF THE POLICY**

This policy document guides the annual setting (or revision) of property rates.

It does not make specific property rates proposals. Details pertaining to the applications of the various property rates are published in the Provincial Gazette and the Municipality's schedule of tariffs, which must be read in conjunction with this policy.

## **7. APPLICATION OF THE POLICY**

In imposing the rate in the rand for each annual operating budget component, the Municipality shall grant exemptions, rebates and reductions to the categories of properties and categories of owners as allowed for in this policy document.

## 8. CATEGORIES OF PROPERTY

- 8.1 Criteria for determining categories of properties for the purpose of levying different rates and for the purpose of granting exemptions will be according to:
- (a) the use of the property;
  - (b) the permitted use of the property or;
  - (c) the geographical area in which the property is situated
- 8.2 The municipal valuator of the Swellendam Municipality will be responsible for the categorising of the properties and the maintenance thereof, and any change in the actual use of the property, may result in the change of categories.
- 8.3 Categories of property for the municipality include-
- (a) resident properties;
  - (b) industrial properties;
  - (c) business and commercial properties;
  - (d) agricultural properties;
  - (e) government properties;
  - (f) mining properties;
  - (g) municipal properties;
  - (h) private open space;
  - (i) private road;
  - (j) properties owned by an organ of state and used for public service purposes;
  - (k) protected areas;
  - (l) public service infrastructure properties;
  - (m) public worship;
  - (n) properties owned by public benefit organisations and used for specified public benefit activities;
  - (o) properties used for multiple purposes, subject to section 10;
  - (p) Vacant land
  - (q) Any other category as may be determined by the Minister, with the concurrence of the Minister of Finance, by notice in the Gazette.

## 9. CATEGORIES OF OWNERS

Criteria for determining categories of owners of properties, for the purpose of granting exemptions, rebates and reductions will be according to the-

- (a) indigent status of the owner of a property as determined by the income level of the owner;
- (b) limited income of owners of a property who are pensioners or dependant on social grants;
- (c) owners of property situated within an area affected by-
  - i. a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
  - ii. any other serious adverse social or economic conditions;
- (d) owners of residential properties with a market value below a determined threshold; (or)
- (e) owners of agricultural properties who are bona fide farmers

## **10. PROPERTIES USED FOR MULTIPLE PURPOSES**

Properties used for multiple purposes may be categorized as follows for rating purpose:

- (i) by apportioning the market value of a property to the different purposes for which the property is used as determined in item 8 (categories of properties) above
- (ii) Applying the relevant cent amount in the rand to the corresponding apportioned market value.

If the market value of the property can be apportioned, each portion must be categorized according to its individual use as determined in item 8 and /or 9 above. If the market value of the property cannot be apportioned to its various use purpose, then such property must be categorized in terms of the dominant use of the property.

In terms of section 7 of the MPRA the Municipality will not levy property rates on-

- (i) properties of which the municipality is the owner:
- (ii) Public Service Infrastructure owned by a municipality entity
- (iii) Leased Municipal Properties with a nominal value and/or portions of commonage property where it is not practical to levy property rates.

## **11. CLASSIFICATION OF SERVICES AND EXPENDITURE**

The Chief Financial Officer shall, subject to the guidelines provided by the Legislation and the Executive Mayor, provide for the classification of services as outlined in the Municipality's annual budget into trading and economic services.

## **12. LEVYING OF RATES**

- (1) Liability for rates by property owners:

Rates levied by a municipality on a property must be paid by the owner of the property, subject to section 9 of the Municipal Systems Act.

Joint owners are jointly and severally liable for the amount due for rates on that property. In a case of agricultural property owned by more than one owner in undivided shares where the holding of such undivided shares was allowed before the commencement of the subdivision of the Agricultural Land Act (Act 70 of 1970) the municipality may consider the following options for determining the liability for rates: If the joint owners are all available, the issue of who is liable for rates will be dealt with in the context of whether they have entered into an agreement or not regarding payment of rates liabilities.

Where the joint owners have a written agreement that a specific joint owner is liable for all the rates, the municipality will hold such a joint owner liable in respect of all the rates. A certified copy of the agreement must be submitted to the municipality.

Where there is no agreement, the municipality will hold anyone of the joint owners responsible for the whole property or hold any joint owner only liable for his undivided share

- (ii) If the joint owners are not traceable with the exception of one joint owner and such joint owner is occupying or using the entire property or a significant larger portion the municipality will hold that joint owner liable for the total rates bill.
- (iii) If the traceable joint owner is only using or occupying a small portion of the entire property, the municipality will hold that joint owner only responsible for his own undivided share in that property.



(2) Method and time of payment:

The municipality will recover the rate levied in periodic instalments of equal amounts in twelve months. The monthly instalment is payable on or before the day determined by Council for payment of services, following the month in which it has been levied. Interest will be charged at 1% above the prime interest rate for any late payments received.

(3) Annual Payment Arrangements

By prior arrangement with the municipality the rate may be paid in a single amount before 30 September of the year it is levied in, however, application must be submitted before 31 May prior to the financial year of implementation of the arrangement. The Director of Financial Services will consider any applications after this date.

(i) Recovery of arrear rates from owner

As soon as the annual rates becomes overdue or the monthly rates have been raised for the remaining months in the financial year, an overdue notice must be issued on the owner at the address selected by the owner. If there is no response from the owner, a further overdue notice should be served at the property with a rider that the services to the property will be terminated within a reasonable period, the minimum being 30 days, should the rates not be paid or satisfactory arrangements made.

This notice should enquire whether the occupier is paying rent and other monies to an agent of the owner and the state that the municipality can, legally, attach the net payment. (i.e. gross receipts by the agent less commission due to the agent on those gross receipts) due to the owner by the agent to settle the arrears. Should the tenant refuse to co-operate, the services should be disconnected and the other debt management actions implemented

(ii) Recovery of arrear rates from tenants, occupiers and agents

If an amount due for rates levied in respect of a property is unpaid after the day determined, the municipality may recover the amount in whole or in part from a tenant or occupier of the property. The amount the municipality might recover from the tenant or occupier of the property is limited to the amount of the rent or other money due and payable by the tenant or occupier to the owner of the property. Any amount the municipality recovers from the tenant or occupier of the property may be set off, by the tenant or occupier, against any money owed by the tenant or occupier to the owner.

The municipality may recover the amount due for rates from an agent of the owner after it has given written notice to that agent or person. The amount the municipality may recover from the agent or other person is limited to the amount of that rent received by the agent or person, less the commission due to that agent or person. (subject to the Estate Agents Act, 1976 (Act No. 112 of 1976). The agent or other person must, on request by the municipality, furnish the municipality with a written statement specifying all payments for rent on the property received by that agent or person during a period determined by the municipality. If the managing agent is identified through the tenant's assistance, a copy of the notice, which was served on the tenant, must be served on the agent stating that failure to co-operate would lead to action being taken against the agent as well as the termination of the services at the supply address. Should the payments by the agent not be able to redeem the arrears within the next 12 months, the monies must be attached and the next step in the debts management plan of the municipality implemented.

The municipality may however decide to extend the 12-month period to such longer period that they deem fit based on the merit.

Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.

In addition, where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.

(4) Supplementary Valuation Debits

In the event that a property has been transferred to a new owner and an Supplementary Valuation took place, the previous owner as well as the new owner will jointly and separately be held responsible for the settling the supplementary rates account.

(5) Ownership

Properties, which vest in the Municipality during developments, i.e. open spaces and roads should be transferred at the cost of the developer to the Municipality. Until such time, rates levied will be for the account of the developer.

(6) Clearance Certificate

Rates Clearance Certificates will be valid until 30 June of a financial year, if monies paid in full until such a date. However, should attorneys request to extend the certificate for 120 days beyond this date, and this extension of time surpasses the date of 30 June the full new year's rates or estimated rates become payable in full.

(7) Levying of rates on property in sectional title scheme

A rate on property, which is subject to a sectional title scheme, will be levied on the individual sectional title units in the scheme.

### **13. DIFFERENT RATING AND RATIOS**

13.1 Different rating among the various property categories may be done by way of setting different cent amount in the rand for each property category and/or by way of reductions and rebates.

The Director of Financial Services will annually calculate the costs of these services and determine through a public participation process to which extent these services are used by the various categories of ratepayers. Inputs from representatives from the various categories of ratepayers must be considered and agreed upon. Different categories of properties may pay different rates in the rand based on the market value of their properties.

13.2 The following ratios publish under GN R195 in GG33016 of 12 March 2010 are applicable in levying rates:

| Categories                           | Ratio in relation to residential properties. |
|--------------------------------------|--|
| Residential Property                 | 1:1  |
| Agricultural property                | 1:0.25                                       |
| Public service infrastructure        | 1:0.25                                       |
| Public benefit organisation property | 1:0.25                                       |

#### 14. IMPERMISSIBLE RATES

A municipality may not levy the following rates in terms of sections 16 (1) and 17 (1) of the Act:

- (i) Rates that would prejudice national economic policies.
- (ii) Rates that would prejudice economic activities across boundaries
- (iii) Rates that would prejudice national mobility of goods, services, capital or labour

On the first 30% of market value of public service infrastructure

On any part of the seashore as defined in the Seashore Act

On any part of the territorial waters of the Republic in terms of the Marine Zones Act (15/1994)

On any island of which the state is the owner including the Prince Edward Islands

On a special nature reserve, national park or nature reserve within the meaning of the National Environmental Management: Protected Areas Act, 2003 (Act no 57 of 2003), or of a national botanical garden within the meaning of the National Environment Management: Biodiversity Act of 2004 (Act no 10 of 2004) which are not developed or used for commercial, business or residential agricultural purposes.

On a mining rights or a mining permit within the meaning of the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002)

On a property belonging to a land reform beneficiary or his or her heirs, provided that this exclusion lapses ten years from the date on which such beneficiary's title was registered in the office of the Registrar of deeds or upon alienation of the property by the land reform beneficiary or his or her heirs, dependants or spouse.

On the first R15, 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll to a category determined as residential property or multiple used property provided that one or more component is used for residential purposes.

On property registered in the name of and used primarily as a place of public worship by a religious community, including an official residence registered in the name of that community, which is occupied by an office-bearer of that community who is, officiates at services at that place of worship. **(The exclusion lapses if not used for the purposes as indicated above)**



## 15. EXEMPTIONS

15.1 The following categories of property are conditionally partially or fully exempted from rates:

a) Residential properties

Owners of residential property qualifying for indigent grant in terms of the Council's Indigent Policy and/or rebates in terms of item 17 of this policy, with a market value below the amount annually determined by council during its budget process, are exempted from paying rates. (Refer to section 15(2) (e) of the act supra.)

This is an important part of the council's Indigent Policy and is aimed primarily at alleviating poverty.

b) Cemeteries and crematoriums

All burial facilities registered in the names of private persons and operated not for gain.

c) Museums

All properties to which the provisions of the National Heritage Resources Act, 1999 (Act 25 of 1999) apply, or an institution that has been declared to be subject to the Cultural Institutions Act, 1998 (Act 119 of 1998)

d) Public Benefit Organizations

The following Public Benefit Organizations may apply for the exemption of property rates subject to producing a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (Act 58 of 1962 ):

a) Charitable institutions

Property belonging to not-for-gain institutions or organizations that perform charitable work and is registered as such.

b) Sporting bodies

Property used by an organization whose sole purpose is to use the Property for sporting purposes on a non-professional basis.

c) Cultural institutions

Properties declared in terms of the Cultural Institutions Act, Act 29 of 1969 or the Cultural Institutions Act, 1989 (Act 66 of 1989).

d) Libraries, art galleries and botanical gardens

Registered in the name of private persons, open to the public and not operated for gain.

e) Animal welfare

Property owned or used by institutions/ organizations whose exclusive aim is to protect birds, reptiles and animals on a not-for gain basis.

## **16. REBATES**

### **16.1 Categories of property**

#### **16.1.1 Residential Properties**

Council may annually during the budget process, by means of an approved sliding scale based on monthly household income, grant qualifying owners a rebate on their rates payable.

#### **16.1.2 Business, commercial and industrial properties**

- (a) The municipality may grant rebates to enterprises that promote local, social and economic development in its area of jurisdiction, based on its Local, Social and Economic Development Policy.
- (b) The following criteria will apply:
  - (i) job creation in the municipal area;
  - (ii) social uplifting of the local community; and
  - (iii) creation of infrastructure for the benefit of the community
- (c) Rebates will be granted on application subject to:
  - i. A business plan issued by the directors of the company indicating how the local, social and economic development objectives of the municipality are going to be met;
  - ii. A continuation plan issued by the directors and certified by auditors of the company stating that the objectives have been met in the first year after establishment and how the company plan to continue to meet the objectives;
  - iii. An assessment by the municipal manager or his/her nominee indicating that the company qualifies; and
  - iv. A Council resolution.

#### **16.1.3 Malagas, Malagas Holiday Area, Infanta, Infanta Park, Riverine, Rietkuil and Oorkant Rivier in Suurbraak**

A rebate annually determine by Council during its budget process may apply to Malagas, Malagas Holiday Resort Area, Infanta, Infanta Park, Riverine, Rietkuil and Oorkant die Rivier in Suurbraak. In these areas there is no municipal infrastructure and no services are rendered. When the municipality is in a position to render services in one of the mentioned areas it will no longer qualify for a rebate.

### **16.2 Categories of owners**

#### **(a) Retired and Disabled Persons Rate Rebate**

Retired and disabled persons qualify for special rebates according to monthly household income. To qualify for the rebate a property owner must:

- I. occupy the property as his/ her normal residence;
- II. be at least 60 years of age or retired due to medical reasons or in receipt of a disability pension.

- III. be in receipt of a total monthly income from all sources (including income of spouses of owner) not exceeding the amount annually set by Council not be the owner of more than one property; and provided that where the owner is unable to occupy the property due to no fault of his/her own, the spouse or minor children may satisfy the occupancy requirement.
- IV. Owners of properties within a specific geographical area in terms of section 8 (1) (c) of the Act may according to conditions adopted by council apply for rebate.

(b) Method of application

Property owners must apply on a prescribed application form for a rebate as determined by the municipality.

(c) Applications must (where applicable) be accompanied by–

- I. A certified copy of the identity document or any other proof of the owner's age which is acceptable to the municipality;
- II. an affidavit from the owner;
- III. if the owner is a disabled person proof of a disability pension must be supplied; and
- IV. if the owner has retired at an earlier stage for medical reasons proof thereof must be submitted.
- V. These applications must reach the municipality before the end of May preceding the start of the new municipal financial year for which relief is sought.
- VI. The Municipality retains the right to refuse rebates if the details supplied in the application form are incomplete, incorrect or false or is received after the date set in (v) above.

**OWNERS WILL ONLY QUALIFY FOR A REBATE IN TERMS OF ONE CATEGORY**

**17. REDUCTIONS**

17.1 A reduction in the municipal valuation as contemplated in section 15(1) (b) of Act will be granted where the value of a property is affected by-

- (a) a disaster within the meaning of Disaster Management Act, 2002 (Act No.57 of 2002); or
- (b) any other serious adverse social or economic conditions

17.2 The reduction will be in relation to the certificate issued for this purpose by the municipal valuer.

17.3 All categories of owners can apply for a reduction in the rates payable as described above.

17.4 Reduction will only be granted as per Council resolution.

**18. COSTS OF EXEMPTIONS, REBATES, REDUCTIONS, PHASING IN OF RATES AND GRANTS-IN-LIEU OF RATES**

- (1) During the budget process the Chief Financial Officer must inform council of all the costs associated with the suggested exemptions, rebates, reductions, phasing in of rates and grants-in-lieu of rates.
- (2) Provisions must be made in the operating budget for the full: –
  - (a) potential income associated with property rates; and
  - (b) the full costs associated with exemptions, rebates, reductions, phasing in of rates and grants-in-lieu of rates.
- (3) Projections regarding revenue foregone for a financial year in relation to exemptions, rebates, reductions, exclusions, phasing – in etc. must be reflected in the council's annual budget for that year.
- (4) A list of all exemptions, rebates, reductions, exclusions, phasing in etc. must be tabled before council.

**19. SPECIAL RATING AREA**

- a) The municipality may by council resolution and in terms of the applicable by-law determine an area within its boundaries as a special rating area for the purpose of raising funds for improving or upgrading that area; and differentiate between categories of property when levying an additional rate
- b) Before determining a special rating area, the municipality must consult the local community on the proposed boundaries of the area, the proposed improvement or upgrading of the area and obtain the consent of the majority of the ratepayers in that proposed special rating area.
- c) The municipality must determine the boundaries and indicate how the area is to be improved or upgraded by the funds derived from the additional rate. Establish a separate accounting and record-keeping system regarding the revenue generated by the special rate and the improvement or upgrading of the area.
- d) The municipality may establish a committee composed of persons representing the community to act as a consultative and advisory forum. Representivity, including gender must be taken into account when such a committee is established.

**20. RATES INCREASES**

- 20.1 The municipality will consider increasing rates annually during the budget process in terms of the guidelines issued by National Treasury from time to time.
- 20.2 Rate increases will be used to finance the increase in operating costs of community and subsidized services.
- 20.3 Relating to community and subsidized services the following annual adjustments to rates payable will at least be made:
  - I. All salary and wage increase as agreed at the South African Local Government Bargaining Council
  - II. An inflation adjustment for general expenditure, repairs and maintenance and contribution to statutory funds, and
  - III. Additional depreciation costs or interest and redemption on loans associated with the assets created during the previous financial year
- 20.4 Extraordinary expenditure related to community service not foreseen during the previous budget period and approved by the Council during a budget review process will be financed by an increase in property rates.

20.5 All increases in property rates will be communicated to the local community in terms of the municipality's policy on community participation.

## **21. REGISTER OF PROPERTIES**

The Chief Financial Officer must draw up and maintain a register of properties as contemplated in section 23 of the Act.

## **22. NOTIFICATION OF RATES**

22.1 The municipality will give notice of all rates approved at the annual budget meeting at least 30 days prior to the date that the rates become effective. Accounts delivered after 30 days' notice will be based in the new rates.

22.2 A notice stating the purport of the municipality's resolution and the date on which the new rates become operational will be displayed by the municipality at places provided for that purpose.

## **23. FREQUENCY OF VALUATIONS**

The municipality shall prepare a new valuation roll every 5 (five) years and a supplementary valuation roll annually.

## **24. GENERAL VALUATION AND PREPARATION OF VALUATION ROLLS**

A municipality intending to levy a rate on property must cause a general valuation to be made of all properties in the municipality, and must prepare a valuation roll of all properties in terms of such valuation. All rateable properties in a municipal area must be valued during such general valuation, including all properties fully or partially excluded from rates in terms of Section 17 of the present Act. However, if the municipality does not intend to levy rates on its own property, on public service infrastructure owned by a municipal entity, on rights in properties, and on properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure resulting from past racial discrimination, the municipality is not obliged to value such properties as part of the valuation process.

## **25. DATE OF VALUATION**

For the purposes of a general valuation a municipality must determine a date that may be not more than 12 months before the start of the financial year in which the valuation roll is to be first implemented.

The general valuation must reflect the market values of properties in accordance with market conditions which apply as at the date of the valuation, and in accordance with any other applicable provisions of the present Act.

## **26. COMMENCEMENT AND PERIOD OF VALIDITY OF VALUATION ROLLS**

A valuation roll takes effect from the start of the financial year following completion of the public inspection period required by the present Act, and remains valid for that financial year or for one or more subsequent financial years, as the municipality may decide, but in total not for more than four financial years.

Section 32(2) provides for the extension of the period of validity of the valuation roll by the MEC for Local Government, but only up to a period of five financial years, and only in specified circumstances

**27. GENERAL BASIS OF VALUATION**

The market value of a property is the amount the property would have realised if sold on the date of valuation in the open market by a willing seller to a willing buyer.

**28. VALUATION OF PROPERTY IN SECTIONAL TITLE SCHEMES**

When valuing a property which is subject to a sectional title scheme, the valuer must determine the market value of each sectional title unit in the scheme.

**29. SUPPLEMENTARY VALUATIONS**

A municipality must regularly, but at least once a year, update its valuation roll by causing a supplementary valuation roll to be prepared, or the valuation roll itself to be amended.

**30. REGULAR REVIEW OF RATES POLICY**

The rates policy must be reviewed on an annual basis during the Budget period to ensure that it complies with the Municipality's strategic objectives and with legislation.

**31. SHORT TITLE**

This policy is the Property Rates Policy of the Swellendam Municipality.

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